

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

05 JUL -5 PM 2:06

WILFREDO LORA,

Plaintiff,

VS.

THOMAS HOLLENHORST,
WILLIAM FITZPATRICK, and,
TIMOTHY MCGRANT,

Defendants.

THOMAS M. JOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

No. 04-2821-D/V

ORDER DENYING MOTION FOR RECONSIDERATION
AND
ORDER PROHIBITING FURTHER FILINGS IN THIS CASE

On May 31, 2005, this action was transferred to the United States District Court for the Eastern District of Virginia at Alexandria pursuant to 28 U.S.C. § 1406(a). On June 10, 2005, Plaintiff Wilfredo Lora placed in the prison mail system a motion for reconsideration which he has styled as a motion under Fed. Rule Civ. P. 59(e). Lora's motion was filed within ten days of the Court's order of transfer, however, this case was transferred, therefore no judgment was entered. No judgment exists which plaintiff may "alter or amend."

Furthermore, the motion states no proper basis for consideration under Fed. Rule Civ. P. 60(b). Lora complains of various rulings in other cases by United States District Judge Leonie Brinkema who presides in the United States District Court for the Eastern District of Virginia in Alexandria. He contends that he will not receive fair and impartial review of his complaint in that court.

This document entered on the docket sheet in compliance with Rule 58 and/or 79(a) FRCP on 2/6/03

complaint

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Lora was convicted of conspiracy to distribute and possess heroin and cocaine with the intent to distribute in the United States District Court for the Eastern District of Virginia. He was sentenced to 292 months imprisonment. United States v. Lora, 26 Fed. Appx. 149 (4th Cir. Dec. 13, 2001). Lora previously filed a motion to vacate his conviction under 28 U.S.C. § 2255, Lora v. United States, No. 03-670 (E.D. Va May 22, 2003), and also sued these defendants for breach of contract, Lora v. Hollenhorst, et al., No. 03-449, No. 04-1184, 108 Fed. Appx. 101 (4th Cir. 2004). Furthermore, his application to file a second or successive § 2255 motion was denied. See United States v. Lora, No. 04-6899, 112 Fed. Appx. 291 (4th Cir. 2004).¹


In spite of plaintiff's view to the contrary, there are no pending issues before the court. This case has been properly transferred. To the extent plaintiff's allegations are of any merit or substance, he may file the appropriate affidavits or motions for disqualification or recusal in the Eastern District of Virginia. Thus, upon review of the motion and its attachments, the

¹ The Court was unable to access the decisions of the United States District Court for the Eastern District of Virginia to determine if this action was duplicative of Case No. 03-449 for breach of contract or whether it presented issues previously determined in his motion to vacate and/or request to file a successive motion. Lora has now attached a copy of Judge Brinkema's opinion which clearly shows this complaint is repetitive and duplicative. This Court's previous determination that the interests of justice required the transfer of this case to allow the United States District Court for the Eastern District of Virginia to determine if Lora's action is duplicative of a prior case or otherwise represents an abuse of the judicial system in an attempt to harass the defendants is fully supported by plaintiff's own exhibit to this motion. Plaintiff is not entitled to engage in serial litigation and forum shopping simply because he is transferred to a prison outside his original district of conviction.

Court finds that the petitioner has raised no argument meriting further discussion. The motion to reconsider is DENIED.

The Clerk is ORDERED not to file or otherwise accept any other documents for filing in this action. Any further documents in this case shall be returned to Lora. Lora's case is now pending before the United States District Court for the Eastern District of Virginia, and he must file further documents related to this matter there, not here. This was not closed, but transferred, therefore, there is no final order from which an appeal can be taken. The order of transfer is a non-appealable collateral order, and any appeal would be devoid of jurisdiction.

IT IS SO ORDERED this 30th day of June, 2005.


BERNICE B. DONALD
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 13 in case 2:04-CV-02821 was distributed by fax, mail, or direct printing on July 6, 2005 to the parties listed.

Wilfredo G. Lora
FCI-MEMPHIS
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Post Office 34550
Memphis, TN 38184--055

Honorable Bernice Donald
US DISTRICT COURT